

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE FEDERATED MUTUAL FUNDS
EXCESSIVE FEE LITIGATION**

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2:04cv352
Electronic Filing

ORDER OF COURT

AND NOW, this 7th day of March, 2011, after (1) consideration of the parties' pretrial statements and trial briefs and (2) reflection on the applicable standards governing the determinations needed to resolve the liability portion of the parties' dispute, IT IS ORDERED that in accordance with Federal Rule of Civil Procedure 39(c)(1), the court will try the non-jury claims/issues in the liability phase of trial with an advisory jury. **The parties shall prepare verdict forms consisting of specific interrogatories that correlate to the separate components of the Gartenberg standard as construed and clarified in Jones and in a manner that identifies each central fact inquiry or mixed question of law and fact under that construction that is necessary for the jury to render a verdict in plaintiffs' favor. Counsel shall structure the interrogatories so that they apply separately to each annual services contract/investment advisory fee at issue. Broad questions of general import will not be used by the court. Counsel are directed to review Docket Number 114 in 2:02cv1975 as guidance for the level of detail counsel should use in preparing their proposed verdict form. An additional example can be obtained from chambers. The parties also shall prepare jury instructions to accompany their proposed interrogatories. Such instructions can be limited to the substantive law governing the liability portion of plaintiffs' claims; and**

IT IS FURTHER ORDERED that the parties' proposed interrogatories and jury

instructions shall be filed on or before April 4, 2011.

s/ David Stewart Cercone
David Stewart Cercone
United States District Judge

cc: Counsel of Record

Via: CM/ECF Electronic Filing